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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,125	03/30/2001	Hernan G. Otero	17209-341	6818
54205 7590 01/06/2011 CHADBOURNE & PARKE LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
OYEBISI, OJO O				
ART UNIT		PAPER NUMBER		
3695				
NOTIFICATION DATE		DELIVERY MODE		
01/06/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patents@chadbourne.com

### Office Action Summary

**Application No.**

09/823,125

**Applicant(s)**

OTERO ET AL.

**Examiner**

CJO O. OYEBISI

**Art Unit**

3695

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GB-06)
- Paper No(s) Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s) Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In the amendment filed on 11/08/10, the following have occurred: claims 1 and 6 have been amended and claims 1-6, and 15-17 are currently pending. The examiner has hereby withdrawn the rejections of claims 1-6 and 15-17 under 35 U.S.C 112, first paragraph.

### ***35 USC § 112***

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim cannot be clearly understood due to the open-ended nature of the Markush group. A Markush group must be definite and complete as to its membership. The Markush group in claim 17 is indefinite as to scope in the use of the term "includes" in the phrase "includes: ratio, gamma hedge, aggressive short sell, stop loss, iceberg, auto trader and CB delta hedge algorithms". That is to say, the word "includes" is open-ended implying that the group includes the following members and others, yet unmentioned. This is too vague and indefinite. Claim therefore rejected. Examiner suggests that the applicant replace the phrase "includes" with the phrase "consists of" to overcome this rejection. Correction is required. See MPEP § 2173.05 (h).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-6 and 15-17** are rejected under 35 U.S.C 102(e) as being anticipated by Kane (U.S. Patent 6,317,728).

**Re claim 1.** Kane discloses a processor-implemented trading method, comprising: receiving via a processor a plurality of trade parameters, the plurality of trade parameters characteristic of a desired trade (see the abstract); receiving a selection of a trade implementation plug-in (see the abstract); loading the selected trade implementation plug-in in a logic engine (see the abstract); loading a market-specific plug-in in the logic engine (see the abstract); providing the plurality of trade parameters characteristic of the desired trade to the logic engine (see fig.1 element 16); determining an order strategy based on the plurality of trade parameters by executing the trade implementation plug-in and the market-specific plug-in (i.e., the decision logic having a plurality of agents, each operating in response to a respective buy/sell rule for generating buy/sell orders for securities in conformance with the buy and sell data, see col3. lines 30-34); executing the order strategy (see col.3 lines 40-43); and providing

order data based on the order strategy for display in real time on a graphical user interface (i.e., a single screen for quote and position information, see col.8 lines 30-31).

**Re claims 2 and 3:** Kane discloses the method wherein the step of inputting a trading order into a logic engine further comprises inputting an order through an ordering system (i.e., data acquisition system, see abstract).

**Re claim 5:** Kane further discloses the method wherein the step of executing said order further comprises outputting said order through an ordering system (col. 3, lines 34-36).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 4, 6, 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kane (U.S. Patent 6,317,728) in view of Microsoft Computer Dictionary (MCD hereinafter: Microsoft Computer Dictionary 5<sup>th</sup> edition, page 345).

**Re claim 4:** Kane discloses a method for computerized trading comprising: the steps of processing trading orders (see abstract). Kane does not explicitly disclose a step of deconstructing said Complex Order into at least one event and action. However, the method of deconstructing complex order into event/action is old and well known and it a well-taught modular design method in object-oriented modular programming (see Microsoft computer dictionary 5<sup>th</sup> edition, page 345). Therefore, it would have been obvious to one of ordinary skill in the art to implement this well-taught modular design method in Kane to allow programmers to debug and recover very quickly from program crashes.

**Re claim 6.** Kane discloses the method for computerized trading comprising:  
, comprising: receiving via a processor a plurality of trade parameters, the plurality of trade parameters characteristic of a desired trade and received as a complexorder and received through an ordering system (see the abstract); receiving a selection of a trade implementation plug-in (see the abstract); loading the selected trade implementation plug-in in a logic engine (see the abstract); loading a market-specific plug-in in the logic engine (see the abstract); providing the plurality of trade parameters characteristic of the desired trade to the logic engine (see fig.1 element 16); determining an order strategy based on the plurality of trade parameters by executing the trade implementation plug-in and the market-specific plug-in (i.e., the decision logic having a

plurality of agents, each operating in response to a respective buy/sell rule for generating buy/sell orders for securities in conformance with the buy and sell data, see col.3. lines 30-34); executing the order strategy (see col.3 lines 40-43); and providing order data based on the order strategy for display in real time on a graphical user interface (i.e., a single screen for quote and position information, see col.8 lines 30-31). Kane does not explicitly teach the step of deconstructing said complex order into events and actions. The method of deconstructing complex order into event/action is a well-taught modular design in object-oriented modular programming (see Microsoft computer dictionary 5<sup>th</sup> edition, page 345). Therefore, it would have been obvious to one of ordinary skill in the art to implement this well-taught modular design method in Kane to allow programmers to debug and recover very quickly from program crashes.

**Re claim 15.** Kane further discloses the method as in claim 6, further comprising: receiving information related to one or more external conditions necessary to match at least one Event and Action (see col.8 lines 14-32, also see col.12 lines 45-60)

**Re claim 16.** Kane further discloses the method as in claim 6, further comprising: generating, based on the received plurality of trade parameters, one or more conditions necessary to match at least one Event and Action (see col.7 lines 60-65, also see col.12 lines 45-60).

**Re claim 17.** Kane further discloses the method as in claim 9, wherein the trade implementation plug-in includes: ratio, gamma hedge, aggressive short sell, stop loss, iceberg, auto trader and CB delta hedge algorithms (see col.3 lines 3-8)

### ***Response to Arguments***

Applicant's arguments filed 11/08/10 have been fully considered but they are not persuasive. In the remarks, the applicant argues in substance that Kane fails to disclose "determining by the trade implementation plug-in and the market-specific plug-in an order strategy based on the plurality of trade parameters." Contrary to the applicant's assertion, the examiner contends that Kane makes this disclosure (i.e., the decision logic having a plurality of agents, each operating in response to a respective buy/sell rule for generating buy/sell orders for securities in conformance with the buy and sell data, see col3. lines 30-34).

The applicant further argues that the prior art of record fail to disclose "the step of deconstructing said complex order into events and actions." Contrary to the applicant's assertion, the examiner contends that the method of deconstructing complex order into event/action is a well-taught modular design in object-oriented modular programming (see Microsoft computer dictionary 5<sup>th</sup> edition, page 345). And one of ordinary skill in the art, at the time of the invention, would have been motivated to implement this well-taught modular design method in Kane to allow programmers to debug and recover very quickly from program crashes.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571)272-8594. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OJO O OYEBISI/  
Primary Examiner, Art Unit 3695